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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

CARL A. WESCOTT,

Plaintiff,

vs.

FREDERICK C. FIECHTER, IV;
DAVID M. ZEPP, ESQ.;
ROBERT N. WEAVER, ESQ. + DOES 1
through 25,

Defendants.

Case No. CV22-4288-VC

**DECLARATION OF ALEX A. GRAFT IN
SUPPORT OF MOTION FOR
MANDATORY ATTORNEY'S FEES**

Date: January 19, 2023

Time: 10:00 a.m.

Courtroom: 4, 17th Floor

DECLARATION OF ALEX A. GRAFT

I, Alex A. Graft, declare as follows:

1. I am an attorney duly admitted to practice in all of the courts of the State of California and I am a partner with Lewis Brisbois Bisgaard & Smith LLP, attorneys of record for Defendant ROBERT N. WEAVER, ESQ. ("Attorney Weaver"). The facts set forth herein are of my own personal knowledge, and if sworn I could and would competently testify thereto.

2. As lead counsel for Attorney Weaver, I have read and am familiar with the documents that were filed and/or served in this case. I was responsible for the initial preparation of Attorney Weaver's anti-SLAPP Motion, the Declaration in support thereof, and the related supporting documents. I now make this declaration in support of Attorney Weaver's motion for anti-SLAPP attorneys' fees pursuant to Code of Civil Procedure section 425.16, subdivision (c).

1 3. On behalf of Attorney Weaver, I caused to be filed an anti-SLAPP motion on
 2 November 16, 2022, a true and correct copy of the points and authorities and supporting declaration
 3 of which is attached hereto as Exhibit A. The motion was initially set for hearing on December 16,
 4 2022. On December 1, 2022, the case was reassigned. Before a new hearing date could be set,
 5 Plaintiff filed a voluntary dismissal, without prejudice, on December 6, 2022, a true and correct
 6 copy of which is attached hereto as Exhibit B.

7 4. I was admitted to the California bar in 2005, and I have 17 years of experience of
 8 defending legal malpractice and professional liability cases. I am a Certified Specialist in Legal
 9 Malpractice Law by the State Bar of California Board of Legal Specialization. I've prepared and
 10 handled numerous anti-SLAPP motions with corresponding fee awards, including most recently,
 11 *Gregory v. Efting*, U.S.D.C., Northern District, Case No. 5:21-cv-03311, in which my client was
 12 awarded \$17,505, based on an hourly rate for me of \$450 per hour. Additional examples of
 13 successful anti-SLAPP motions resulting in fee awards on behalf of my client include *The Belle*
 14 *Rose Claremont LLC., et al. v. Kate Fried*, Superior Court of Alameda County Case No.
 15 RG18898140, in which my client was awarded in 2019 \$42,676 in attorney's fees based upon an
 16 hourly rate of \$350 per hour for myself and \$270 per hour for my associate, *Mehrdad Elie v. Paul*
 17 *B. Justi et al.*, Superior Court of County of Napa, Case No. 26-59137, in which my client was
 18 awarded \$40,000 in attorneys' fees in 2016 based upon an hourly rate of \$400 per hour for myself,
 19 *Patti Stevenson v. Sophita Feterman, et al.*, Superior Court of Santa Clara County, Case No. 17-
 20 CV307335, in which my client was awarded \$45,045.89 in attorneys' fees again based upon an
 21 hourly rate for myself of \$400 per hour in 2017, and *Smith v. Entrepreneur Media, Inc.*, Superior
 22 Court of Orange County, Case No. 30-2020-01172678-CU-PO-CJC, awarded \$24,281 in attorneys'
 23 fees and costs based upon hourly rate of \$450 per hour this past year. I estimate that I have prevailed
 24 on behalf of my client well in excess of ten cases using the anti-SLAPP procedure.

25 5. Based upon my experience, I believe \$450 is a reasonable hourly rate for myself. If
 26 anything, this rate is actually on the low side for someone at my level of experience and
 27 accomplishment. The 30 hours of attorney time already spent and anticipated 5 hours required to
 28 reply to Plaintiff's expected opposition, and appear at the hearing, at that rate would equal a total

1 mandatory fee award to Attorney Weaver in the amount of \$15,750.

2 6. In assessing the nature of allegations in the operative Complaint, I knew from the
3 very beginning of our involvement on behalf of Attorney Weaver in this action that there was a very
4 high probability that we would be filing an anti-SLAPP motion under Code of Civil Procedure
5 section 425.16. Thus, I am informed and believe, and thereon declare, that all of the legal services
6 that we performed on this case, and for which we billed time (up to and including the voluntary
7 dismissal) were at least indirectly related to the anti-SLAPP motion that we prepared and filed on
8 behalf of Attorney Weaver.

9 7. However, we are only seeking a portion of that time on this motion for fees; just the
10 time for the tasks directly related to the anti-SLAPP motion and the present motion- 30 hours, plus
11 another anticipated 5 hours addressing Plaintiff's opposition and appearing for the hearing, if any.
12 All of those hours were incurred in relation to analysis of Plaintiff's claims and formulation of
13 strategy specific to the anti-SLAPP motion, including assessment of Attorney Weaver's
14 involvement as it pertained to Plaintiff's claims, conferring with him (by telephone, and by email)
15 to understand the facts of the case, review of recent authorities, the drafting of the anti-SLAPP
16 Motion itself (including revising and finalizing), and preparation of the instant fee motion,
17 including at least 6 hours on the present motion and more than 14 hours directly preparing the
18 anti-SLAPP motion.

19 8. I've excluded time totaling five and one half hours which was not directly related
20 to the preparation for, and of, the anti-SLAPP motion, such as time reporting case updates to my
21 clients, and addressing case management issues, including alternative dispute resolution and
22 consent to a magistrate, as well as more than two hours spent getting up to speed on developments
23 involving underlying litigation filed in Illinois.

24 9. I record my time spent on this matter contemporaneously in increments of one-
25 tenth of an hour. A detailed time record of the services rendered and the time I expended are
26 entered by me into a computer database maintained by the firm's billing department. We bill for
27 our time, with the fee determined by multiplying the hours recorded by the hourly rate of the
28 professional. According to my records, the total number of hours I billed on this matter as of this

1 filing (not including time I spent on this motion) was no less than 35 hours, and we are only
2 seeking to have those 30 hours included in the calculation of attorneys' fees to be awarded on this
3 motion. That 30 hours is time that I actually spent between August 3, 2022 to the present working
4 on tasks directly related to obtaining the order granting our anti-SLAPP motion.

5 10. On December 8, 2022, I visited the website www.laffeymatrix.com, and I printed a
6 copy of the current Laffey Matrix. A true and correct copy of this print-out is attached hereto as
7 Exhibit C.

8 11. Attached hereto as Exhibit D is a true and correct copy of email correspondence
9 with Plaintiff.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct and that this declaration was executed on this 14th day of December,
12 2022, at Danville, California.

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14 /s/ Alex A. Graft
15 Alex A. Graft
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Exhibit A

1 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

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8 UNITED STATES DISTRICT COURT

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11 CARL A. WESCOTT,

12 Plaintiff,

13 vs.

14 FREDERICK C. FIECHTER, IV;

DAVID M. ZEFF, ESQ.;

15 ROBERT N. WEAVER, ESQ. + DOES 1
through 25,

16 Defendants.

Case No. CV22-4288-AGT

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANT ROBERT N. WEAVER'S
SPECIAL MOTION TO STRIKE (ANTI-
SLAPP) PLAINTIFF'S COMPLAINT
PURSUANT TO CAL. CODE OF CIVIL
PROCEDURE § 425.16**

Date: December 16, 2022

Time: 10:00 a.m.

Courtroom: A - 15th Floor

Magistrate Judge Alex G. Tse

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1 **I. INTRODUCTION**

2 Plaintiff CARL A. WESCOTT (“Plaintiff”), already deemed a vexatious litigant under
 3 California Code of Civil Procedure §391(b), just does not seem to get it, as here he is again in this
 4 action, pursuing unmeritorious claims, including against Defendant ROBERT N. WEAVER
 5 (“Attorney Weaver”), Plaintiff’s adversary in collection proceedings against Plaintiff. In fact, the
 6 present action is more than unmeritorious, but also SLAPP (the acronym for “strategic litigation
 7 against public participation”) which is precluded under Code of Civil Procedure §425.16 (“anti-
 8 SLAPP statute”), as it is premised on Attorney Weaver’s protected litigation conduct against
 9 Plaintiff. Like so many of his prior baseless actions, the present one also has no prospects of
 10 prevailing, and therefore, should be summarily dismissed under the anti-SLAPP statute.

11 It is well-settled that claims premised upon the exercise of protected activity—here,
 12 Attorney Weaver’s litigation conduct—fall under the purview of the anti-SLAPP statute. Indeed,
 13 “the point of the anti-SLAPP statute is that you have a right not to be dragged through the courts
 14 because you exercised your constitutional rights.” (*Varian Medical Systems, Inc. v. Delfino*
 15 (2005) 35 Cal.4th 180, 193.) Yet Plaintiff’s Complaint seeks to hold Attorney Weaver liable for
 16 representing his client in litigation adverse to Plaintiff, activity that is directly and unequivocally
 17 protected by the anti-SLAPP statute. Indeed, Plaintiff readily concedes that Attorney Weaver
 18 represented Defendant FREDERICK C. FIECHTER, IV (“Mr. Fiechter”) “pursuing their client’s
 19 debt collection via legal complaints” against Plaintiff, which is the predicate for Plaintiff’s two
 20 causes of action in the Complaint for alleged violations of the Federal Debt Collection Practices
 21 Act (“FDCPA,” codified at 15 U.S.C. §1692) and the Rosenthal Act, California Civil Code §1788,
 22 et. seq. (Complaint, paragraph 35.) The first prong under the anti-SLAPP statute is therefore
 23 met, shifting the burden to Plaintiff to produce competent, admissible evidence demonstrating a
 24 probability of prevailing.

25 He will never be able to do so for at least four distinct reasons: First, because Plaintiff fails
 26 to even allege a legally cognizable claim; second, the litigation privilege bars Plaintiff’s claims;
 27 third, Plaintiff’s claim is barred by the statute of limitations; and fourth, Plaintiff failed to obtain
 28 pre-filing permission under Civil Code §1714.10 relating to claims of alleged conspiracy with a

1 client. Because the activities on which Plaintiff's Complaint is based constitute protected conduct
 2 under the anti-SLAPP Statute, and Plaintiff cannot establish a probability of prevailing on his
 3 claims, Attorney Weaver respectfully requests that the Court grant his Anti-SLAPP motion.

4 **II. FACTUAL BACKGROUND**

5 This case arises from collection efforts by Attorney Weaver on behalf of a creditor client,
 6 Mr. Fiechter, against Plaintiff, who owes Mr. Fiechter well over \$2.75 million comprised of two
 7 unsatisfied judgments. (Declaration of Robert Weaver ("Weaver Decl.", ¶ 3.) Attorney Weaver
 8 represented Fiechter in a bankruptcy and adversary proceedings against Plaintiff seeking a
 9 judgment determining the amount and dischargeability of Plaintiff's debt to Fiechter. (Id. at ¶¶ 3,
 10 5, 6, 8; see also Complaint, ¶ 35.) Defendant David Zeff ("Attorney Zeff") served as counsel for
 11 Mr. Fiechter in his California collections action against Plaintiff. (Complaint, ¶¶ 3, 39.)

12 **A. Underlying Facts**

13 Attorney Weaver was initially retained in December of 2011 by Mr. Fiechter to assist
 14 attorney Guy Kornblum in addressing a Chapter 7 bankruptcy petition filed by Plaintiff and his
 15 spouse. (Weaver Decl., ¶ 4.) The month prior, Attorney Kornblum had filed an amended
 16 complaint against Plaintiff in civil court adding fraudulent conveyance claims to the collection
 17 action that had been filed on behalf of Mr. Fiechter. (Declaration of Alex Graft ["Graft Decl."],
 18 Exh. A.) In the course of his engagement, Mr. Weaver uncovered evidence of fraud on the part of
 19 Plaintiff which would support the basis for an adversary complaint establishing that the judgments
 20 obtained by Mr. Fiechter against Plaintiff were not dischargeable under 11 U.S.C. § 523. (Weaver
 21 Decl., ¶ 5.) But before he could file an adversary complaint on behalf of Mr. Fiechter on that
 22 basis, Plaintiff's bankruptcy petition was dismissed due to Plaintiff's failure to file the required
 23 schedules. (Graft Decl., Exh. B.)

24 Plaintiff again filed for Chapter 7 bankruptcy on January 17, 2012 ("Underlying
 25 Bankruptcy Action II"), prompting the subsequent filing of the adversary complaint by Attorney
 26 Weaver, properly alleging fraud on the part of Plaintiff, and seeking a determination that
 27 application of 11 U.S.C. § 523 required denial of bankruptcy discharge in favor of Plaintiff. (Exh.
 28 C to Graft Decl.) While the adversary complaint was pending, Attorney Weaver worked closely

1 with the bankruptcy trustee and his attorney, who filed their own adversary complaint against
 2 Plaintiff and later prevailed on summary judgment. (Weaver Decl., ¶ 6; Exhs. D and E to Graft
 3 Decl.) On May 1, 2013, judgment denying discharge was entered against Plaintiff. (Graft Decl.,
 4 Exh. F; Complaint, ¶ 37.) Accordingly, since discharge was denied, the adversary complaint filed
 5 by Attorney Weaver was moot. (Weaver Decl., ¶ 7.)

6 Meanwhile, in the civil collection action, in which Attorney Zeff was now representing
 7 Mr. Fiechter, Plaintiff's counsel withdrew. (Graft Decl., Exh. G.) The withdrawal order provided
 8 two means of contacting Plaintiff—an email address and “San Pedro Sula, Honduras.” (*Ibid.*) It
 9 also specified that the next hearing in the case was set in September 2013. (*Ibid.*) The September
 10 hearing was continued by court order to late November 2013, and notice was sent by the Court to
 11 Plaintiff at both the provided address in Honduras and to his former attorney, but not to Plaintiff's
 12 email address. (Exh. H to Graft Decl.) The Court repeatedly continued the case management
 13 conference through February 2015, until it set the case for trial on June 29, 2015. (Exh. I to Graft
 14 Decl.) In March 2015, Attorney Zeff filed a request for entry of default, which was served to San
 15 Pedro Sula, Honduras, and to a San Francisco, California P.O. Box. (*Ibid.*; Exh. J to Graft Decl.;
 16 see also paragraph 41 to Complaint.) The clerk entered the default on March 20, 2015, and a
 17 default “prove up” hearing was subsequently scheduled. (*Id.*)

18 Plaintiff did not appear for the “prove up” hearing and, after its finding of facts to support
 19 the judgment, the Court entered a default judgment of approximately \$1.5 million against Plaintiff.
 20 (Exh. K to Graft Decl.) The Notice of Entry of Judgment was served on Plaintiff at the Honduras
 21 address, a San Francisco P.O. box, and via an email address supplied by Plaintiff on
 22 contemporaneously filed federal court records. (*Ibid.*) Plaintiff became aware of the entry of the
 23 judgment, as he filed a motion to vacate the judgment pursuant to Code of Civil Procedure § 473,
 24 on November 12, 2019, which was denied in a minute order entered December 3, 2019. (Exhs. L
 25 and M to Graft Decl.)

26 Plaintiff again filed for bankruptcy in 2016 (“Underlying Bankruptcy Action III”) -
 27 neglecting to provide notice to his creditors - and was initially granted a discharge, but Attorney
 28 Weaver later arranged with an associated counsel, located close to the court where that bankruptcy

1 action had been filed, to vacate the discharge order. (Weaver Decl., ¶ 8; Exh. N to Graft Decl.)
 2 Collection, however, continued to present difficulties, as Plaintiff owed substantial amounts of
 3 spousal maintenance and child support as a result of Plaintiff's apparently contentious divorce
 4 through which he maintained that he lacked any assets. (Weaver Decl., ¶ 9.)

5 **B. Plaintiff's Allegations Against Attorney Weaver**

6 The only allegations which seem directed at Attorney Weaver is that he "advise[d] [Mr.]
 7 Fiechter to add allegations of fraud to his legal complaint to 'bankrupt-proof' his then-future-
 8 judgment" which "were false." (Complaint, ¶ 37, 38; see also ¶ 58 [in which Plaintiff characterizes
 9 his "largest source of harm . . . lay in [Mr.] Fiechter's false allegations of fraud."]; but see ¶ 12 of
 10 Weaver Decl.) Plaintiff asserts he lost a job as a result of a "fraudulent judgment for fraud" as his
 11 employer, SparkLabs, used the judgment as cover to fire Plaintiff for "whistleblowing" about SEC
 12 violations. (Complaint, ¶ 67.) In attempting to fit his claims within the debt collection statutes, he
 13 refers to "abusing the legal process" and points to the "resulting judgment" as "deceptive acts," as
 14 well as "later acts to bribe the law office of opposing counsel to steal confidential and privileged
 15 information were further such deceptive acts.¹" (Complaint, ¶ 79.)

16 Of course, it cannot be disputed that it is Plaintiff who regularly uses legal process to
 17 harass, and has been declared a vexatious litigant by the San Francisco Superior Court pursuant to
 18 the Section 391 of the California Code of Civil Procedure for abuse of process and harassing
 19 litigation. (Exh. A to Weaver Decl. [California Vexatious Litigant List Excerpt, retrieved
 20 November, 2022].) Plaintiff has also filed no less than twenty-five cases in federal and state
 21 courts throughout the country since January 2021 (Weaver Decl., Exh. B.)

22 **III. REQUEST FOR JUDICIAL NOTICE**

23 Pursuant to Federal Rules of Evidence, Rule 201, Attorney Weaver requests that the Court
 24 take judicial notice of the following Court documents for the purpose of this Motion. (See, *Branch*
 25 *v. Tunnell* (9th Cir. 1994) 14 F.3d 449, 454.) These documents are attached to the Declaration of
 26

27
 28 ¹ The latter aspect of that claim lacks any context. Its blamed on "Defendants" but no actual
 facts are alleged which explain what Plaintiff means. Needless to say, Attorney Weaver did not
 "bribe" anyone and there are no facts pled that he did.

Alex A. Graft (“Graft Decl.”), filed concurrently herewith:

Exhibit A: Third Amended Complaint, filed November 1, 2011, in San Francisco Superior Court, Case No. CGC-10-496091 (“San Francisco Action”);

Exhibit B: Order dismissing bankruptcy petition in United States Bankruptcy Court, Northern District of California, Case No. 11-34426 DM7 (“Underlying Bankruptcy Action”);

Exhibit C: Adversary Complaint filed by Attorney Weaver in United States Bankruptcy Court, Northern District of California, Case No. 12-30143 DM (“Underlying Bankruptcy Action II”);

Exhibit D: Adversary Complaint filed by the bankruptcy trustee in the Underlying Bankruptcy Action II;

Exhibit E: Summary Judgment Order in Underlying Bankruptcy Action II;

Exhibit F: Judgment denying discharge entered in Underlying Bankruptcy Action II;

Exhibit G: Order authorizing withdrawal of counsel in San Francisco Action;

Exhibit H: Order continuing case management conference in the San Francisco Action;

Exhibit I: Excerpt of the register of actions in the San Francisco Action;

Exhibit J: Request for default filed in the San Francisco Action;

Exhibit K: Notice of entry of default judgment in the San Francisco Action;

Exhibit L: Plaintiff request to set aside the judgment entered in the San Francisco Action, and supplemental briefing;

Exhibit M: Order denying request to set aside the default judgment entered in San Francisco Action;

Exhibit N: Judgment vacating discharge order in United States Bankruptcy Court, Northern District of California, Case No. 16-10975 HLB7 (“Underlying Bankruptcy Action III”).

IV. LEGAL ARGUMENT

A. The Anti-SLAPP Statute Applies to Plaintiff’s Claims Against Attorney Weaver

1. The Anti-SLAPP Statute Generally

In 1992, the California Legislature enacted the anti-SLAPP statute in order to combat

1 increasing use of lawsuits designed to chill “a party’s constitutional right of petition.” (*State Farm*
 2 *General Ins. Co. v. Majorino* (2002) 99 Cal. 4th 974, 975.) Commonly, “SLAPP suits are brought
 3 to obtain economic advantage over the defendant, not to vindicate a legally cognizable right of the
 4 Plaintiff.” *Id.* at 1126 (citing *Wilcox v. Superior Court* (1994) 27 Cal. App. 4th 809, 815-816.

5 The elements for a special motion to strike under § 425.16 are set out as follows:

6 (b)(1) A cause of action against a person arising from any act of that
 7 person in furtherance of the person’s right of petition or free speech
 8 under the United States or California Constitution in connection
 9 with a public issue shall be subject to a special motion to strike,
 unless the court determines that the plaintiff has established that
 there is a probability that the plaintiff will prevail on the claim.

10 (2) In making its determination, the court shall consider the
 pleadings, and supporting and opposing affidavits stating the facts
 upon which the liability or defense is based.

11 (3) If the court determines that the plaintiff has established a
 12 probability that he or she will prevail on the claim, neither that
 determination nor the fact of the determination shall be admissible
 13 in evidence at any later stage of the case, or in any subsequent
 action, and no burden of proof or degree of proof otherwise
 14 applicable shall be effected by that determination in any later stage
 of the case or in any subsequent proceeding.

15
 16 The California Legislature has defined the activities protected by the anti-SLAPP statute,
 17 which includes “any written or oral statement made before a legislative, executive, or judicial
 18 proceeding, or any other official proceeding authorized by law” as well “as any written or oral
 19 statement or writing made in connection with an issue under consideration or review by a
 20 legislative, executive, or judicial body, or any other official proceeding authorized by law” or “any
 21 other conduct in furtherance of the exercise of the constitutional right of petition or the
 22 constitutional right of free speech in connection with a public issue or an issue of public interest.”
 23 Cal. Code Civ. Proc. § 425.16(e)(1)(2) and (4).

24 Moreover, section 425.16 was amended in January 1997 to prevent conflicting
 25 interpretations of the statute issued by the appellate courts. The Legislature stated that henceforth
 26 the statute “**shall be construed broadly.**” (Cal. Code Civ. Proc. § 425.16(a) (emphasis added);
 27 see also *Rohde v. Wolfe* (2007) 154 Cal. App. 4th 28, 35 “[S]tatements, writings and pleadings in
 28 connection with civil litigation are covered by the anti-SLAPP statute, and that statute does not

1 require any showing that the litigated matter concerns a matter of public interest”].)

2 2. An Anti-SLAPP Motion May be Brought in Federal Court

3 The court in *Globetrotter Software, Inc. v. Elan Computer Group, Inc.*, 63 F. Supp. 2d
4 1127 (N.D. Cal. 1999), determined an anti-SLAPP statute applied in federal court:

5 With respect to the applicability of the anti-SLAPP statute to claims
6 filed in federal court, the Court turns to a recent decision from the
7 Ninth Circuit, *United States v. Lockheed Missiles and Space Co.,*
8 *Inc.*, 171 F.3d 1208 (9th Cir.1999), in which the Ninth Circuit held
9 that the statute was applicable to state law counterclaims asserted in
10 a federal diversity action. The Court concluded that application of
11 the statute to such claims would not result in a ‘direct collision’ with
12 the Federal Rules. The Court went on to perform an *Erie* analysis,
concluding that important substantive state interests are furthered by
the anti-SLAPP statute, that no identifiable federal interest would be
undermined by applying the anti-SLAPP statute in diversity actions.
... The *Erie* doctrine applies to pendent state law claims to the same
extent it applies to state law claims before a federal court on the
basis of diversity jurisdiction. See *Nathan v. Boeing Co.*, 116 F.3d
422, 423 (9th Cir.1997).

13 Accordingly, it appears under the *Erie* analysis set forth in *Lockheed* the anti-SLAPP statute may
14 be applied to state law claims which, as in this case, are asserted pendent to federal question
15 claims. (*Id.* at 1129-1130; accord *Vess v. Ciba-Geigy Corp. USA* (9th Cir. 2003) 317 F.3d 1097,
16 1109 [“Motions to strike a state law claim under California’s anti-SLAPP statute may be brought
17 in federal court.”].)

18 B. Attorney Weaver has Met His Burden Under Anti-SLAPP First Prong

19 Under the anti-SLAPP statute, a defendant carries the initial burden to show that the
20 plaintiff’s suit “arises from an act in furtherance of the defendant’s rights of petition or free
21 speech.” (Cal. Code Civ. Proc. § 425.16(b)(1); *Vess*, 317 F.3d at 1110.) “The defendant need not
22 show that the plaintiff’s suit was brought with the intention to chill the defendant’s speech; the
23 plaintiff’s ‘intentions are ultimately beside the point.’” (*Vess, supra.* at 1110 (quoting *Equilon*
24 *Enters., LLC v. Consumer Cause, Inc.* (2002) 29 Cal. 4th 53, 67).

25 As noted above, an “act” covered by the anti-SLAPP statute includes (1) “any written or
26 oral statement or writing made before a . . . judicial proceeding, or any other official proceeding
27 authorized by law; [or] (2) any written or oral statement or writing made in connection with an
28 issue under consideration or review by a . . . judicial body, or any other official proceeding

1 authorized by law.” (Cal. Code Civ. Proc. § 425.16(e)(1) & (2).) Under Section 425.16(e)(1) and
 2 (2) therefore, “all communicative acts performed by attorneys as part of their representation of a
 3 client in a judicial proceeding or other petitioning context are per se protected as petitioning
 4 activity by the anti-SLAPP statute.” (*Cabral v. Martins* (2009) 177 Cal. App. 4th 471, 480; see
 5 also *Rusheen v. Cohen* (2006) 37 Cal. 4th 1048, 1056 [anti-SLAPP statute protects
 6 “communicative conduct such as the filing, funding, and prosecution of a civil action,” including
 7 such acts when “committed by attorneys in representing clients in litigation”].) It is, in fact, well-
 8 settled that claims based on “litigation activity” are subject to the anti-SLAPP statute. (*Church of*
 9 *Scientology v. Wollersheim* (1996) 42 Cal.App.4th 628, 648, emphasis added [“A cause of action
 10 ‘arising from’ defendant’s litigation activity may appropriately be the subject of a section 425.16
 11 motion to strike.”].) The anti-SLAPP statute specifically applies to “any act...in furtherance of
 12 the...right [to] petition.” (*Ludwig v. Superior Court* (1995) 37 Cal.App.4th 8, 19; see also,
 13 *Rusheen, supra.* at 1056 [“Any act” includes communicative conduct such as the filing, funding,
 14 and prosecution of a civil action.”].) Further, statements protected under the litigation privilege
 15 (discussed below) are “equally entitled to the benefits of section 425.16.” (*Briggs v. Eden Council*
 16 *for Hope & Opportunity* (2009) 19 Cal.4th 1106, 1115.)

17 Here, Plaintiff’s claim is premised wholly upon protected conduct, as it seeks to impose
 18 liability on Attorney Weaver for “advis[ing] [Mr.] Fiechter to add allegations of fraud to his legal
 19 complaint to ‘bankrupt-proof’ his then-future-judgment.” (Complaint, ¶¶ 37, 38.) The advising of
 20 a client regarding the content of pleadings and representation of a client in litigation is prototypical
 21 protected conduct under the anti-SLAPP statute.² Thus, the burden shifts to Plaintiff to establish a
 22 probability of prevailing on the merits. As set forth below, Plaintiff cannot make this showing.

23
 24
 25 ² Plaintiff may contend that Attorney Weaver cannot be protected from advising a client to
 26 include “false” allegations, as he alleged (see ¶ 38 to Complaint), but he would be wrong. As the
 27 Court explained in *Contreras v. Dowling* (2016) 5 Cal. App. 5th 394, 414, “conduct that would
 28 otherwise come within the scope of the anti-SLAPP statute does not lose its coverage ... simply
 because it is alleged to have been unlawful or unethical.” (See also *Bergstein v. Stroock &*
Stroock & Lavan LLP, (2015) 236 Cal. App. 4th 793, 805 [allegedly tortious activity “centered in
 defendants’ role as counsel” was protected litigation activity]; *Finton Construction, Inc. v. Bidna &*
Keys. APLC (2015) 238 Cal.App.4th 200, 210.)

1 C. **Plaintiffs Cannot Establish a Reasonable Probability of Success on His**
2 **Claim(s) Against Attorney Weaver**

3 Under the anti-SLAPP Statute, once a defendant shows that a lawsuit arises from protected
4 conduct, the burden shifts to plaintiff to establish a probability that he will prevail on the claims
5 asserted against the defendant. (*Dove Audio v. Rosenfeld Meyer & Susman* (1996) 47 Cal. App.
6 4th 777, 784-785.) To meet that burden, the plaintiff must produce competent, admissible
7 evidence supporting his or her claims. (*Church of Scientology, supra*, 42 Cal.App.4th at 658.) A
8 plaintiff cannot rely on allegations in a complaint to satisfy his burden. (*Id.* at 656.)

9 Although plaintiff has the burden of proof as to the probability of prevailing, evidence
10 presented by the defendant remains relevant, as the California Supreme Court explained in *Wilson*
11 *v. Parker, Covert & Chidester* (2002) 28 Cal.4th 811, 821:

12 In deciding the question of potential merit, the trial court considers
13 the pleadings and evidentiary submissions of both the plaintiff ***and***
14 ***the defendant.*** (Section 425.16, Subd. (b)(c).) Though the court
15 does not weigh the credibility of or comparative probative strength
16 of competing evidence, ***it should grant the motion if, as a matter of***
17 ***law, the defendant's evidence supporting the motion defeats the***
18 ***plaintiff's attempt to establish evidentiary support for the claim.***

16 (emphasis added.)

17 Here, Plaintiff's claim against Attorney Weaver fails as a matter of law on at least four
18 independent grounds: because (1) Plaintiff fails to even allege a legally cognizable claim, (2) the
19 litigation privilege serves as an absolute bar to Plaintiff's claim, (3) Plaintiff's claim is barred by
20 the statute of limitations set forth in Cal. Code of Civil Procedure § 340.6, and (4) Plaintiff failed
21 to obtain pre-filing permission under Cal. Civil Code § 1714.10 relating to claims of conspiracy
22 with a client.

23 1. **Plaintiff Fails to State Facts Comprising an Actionable Claim Against**
24 **Attorney Weaver**

25 In addition to the substantive and procedural deficiencies detailed below, each of which
26 prevent Plaintiff from establishing a probability of prevailing on his claim(s), Plaintiff has also
27 failed to even present a "legally sufficient" Complaint, let alone a Complaint which can be
28 substantiated with actual evidence. (See *Wilson, supra*, 28 Cal.4th at 821.) Of course, a plaintiff

1 must both “state and substantiate” a cause of action to survive an anti-SLAPP motion. (*Tuchscher*
 2 *Development Enterprises, Inc. v. San Diego Unified Port District* (2003) 106 Cal.App.4th 1219,
 3 1235.) But Plaintiff’s Complaint does not intelligibly allege a cause of action against Attorney
 4 Weaver, nor any facts which could comprise a legally cognizable claim.

5 A complaint that offers mere “labels and conclusions” or “a formulaic recitation of the
 6 elements of a cause of action will not do.” (*Ashcroft v. Iqbal* (2009) 556 U.S. 662, 678; see also
 7 *Moss v. U.S. Secret Serv.* (9th Cir. 2009) 572 F.3d 962, 969.) Yet Plaintiff’s causes of action are
 8 nothing but legal recitals about “deceptive acts” or “fraud” without identifying any facts which
 9 actually indicate any other wrongdoing. Certainly, for reasons discussed above, the filing of
 10 pleadings, or advise in connection therewith, is not, itself, grounds for liability.

11 Put another way, the full extent of allegations against Attorney Weaver are included within
 12 paragraphs 36-38, and 67 and none of those allegations actually demonstrate any wrongdoing in
 13 anything other than conclusory terms. Discounting Plaintiff’s conclusory allegations leaves the
 14 Court with nothing which can form a cause of action³. Thus, not only is Plaintiff’s claim(s)
 15 against Attorney Weaver barred by the litigation privilege, and the statute of limitations, and
 16 lacking in substantive merit, but it also fails to even meet the threshold of alleging a claim, leaving
 17 Plaintiff with no possibility of establishing a probability of prevailing.

18 2. The Litigation Privilege Serves As An Absolute Bar To Plaintiff’s 19 Complaint

20 A publication or broadcast made in any judicial proceeding is absolutely privileged
 21 according to California law. (Cal. Civ. Code § 47(b)(2) [“A privileged publication or broadcast is
 22 one made: . . . (b) In any . . . (2) [j]udicial proceeding. . .”].) This “litigation privilege” affords
 23 litigants and witnesses unfettered access to the court without fear of being harassed by derivative
 24 tort actions. (*Silberg v. Anderson* (1990) 50 Cal. 3d 205.) Although originally enacted with
 25 reference to defamation, the privilege is now held applicable to any communication, whether or
 26 not it amounts to publication, **and to all torts except malicious prosecution:**

27
 28 ³ Plaintiff’s failure to even *plead* a claim underscores his inability to actual *substantiate* such a
 claim with actual evidence.

In furtherance of the public policy purposes it is designed to serve, the **privilege described by § 47(2) has been given broad application.** Although originally enacted with reference to defamation (citations), the privilege is now held applicable to any communication, whether or not it amounts to a publication (citations), and **all torts** except malicious prosecution. (Citations.)

(*Silberg, supra.* at 211-212, emphasis added; see also *Flores v. Emerich & Fike*, 416 F. Supp. 2d 885, 900 (E.D. Cal. 2006); see also *Hagberg v. California Federal Bank FSB* (2004) 32 Cal. 4th 39.)

In *Silberg*, plaintiff argued that the litigation privilege should only apply to statements made in the furtherance of justice. The California Supreme Court rejected the application of an “interest of justice” test because such a test was “*inconsistent with the absolute nature of the litigation privilege* and its underlying policy purposes.” (Id. at p. 209; emphasis added.) The *Silberg* decision discusses the important policy concerns furthered by the litigation privilege.

The principle purpose of § 47(2) is to afford litigants and witnesses the utmost freedom of access to the courts without fear of being harassed subsequently by *derivative tort actions*. (Citations.) . . .

Given the importance to our justice system of *insuring free access to the courts*, promoting complete and truthful testimony, encouraging zealous advocacy, giving finality to judgments, and *avoiding unending litigation*, it is not surprising that § 47(2), the litigation privilege, has been referred to as ‘the backbone to an effective and smoothly operating judicial system.’ (Citation.) . . .

To effectuate its vital purposes, the litigation privilege is held to be absolute in nature.

(Id. at 213-215, emphasis added.) Along similar lines, in *Friedman v. Knecht* (1967) 248 Cal.App.2d 455, the Court of Appeal held that any doubt as to the application of the litigation privilege should be resolved in favor of the defendant.

At all events, it is held that doubts are to be resolved in favor of relevancy and pertinency; that is to say, the matter to which the privilege does not extend must be so palpably wanting in relation to the subject matter of the controversy that there can be no reasonable doubt of its impropriety. If the privilege is worth having, its purpose would be largely defeated if it were to vanish simply because one possible meaning of a statement made during judicial proceedings does not relate to them.

(emphasis added.)

1 The courts have accordingly given broad application to the litigation privilege. "To be
 2 privileged under subdivision 2 of §47, the matter need not be relevant, pertinent or material to any
 3 issue before the court, it only need have some connection or some relation to the judicial
 4 proceeding." (*Smith v. Hatch* (1969) 271 Cal.App.2d 39, 46.) In *Rubin v. Green* (1993) 4 Cal.4th
 5 1187, the California Supreme Court similarly held:

6 For well over a century, communications with 'some relation' to
 7 judicial proceedings have been ***absolutely immune from tort***
 8 ***liability*** by the privilege codified as section 47 (b). At least since
 9 then-Justice Traynor's opinion in *Alberston v. Raboff* (1956) 46
 10 Cal.2d 375, California courts have given the privilege an expansive
 11 reach. . . .

12 In light of this extensive history, it is late in the day to contend that
 13 communications with 'some relation' to an anticipated lawsuit are
 14 not within the privilege.

15 (*Id.* at 1193-1194, emphasis added; see also *Flores*, 416 F. Supp. 2d at 899.) Accordingly, in
 16 *Pollock v. University of Southern California* (2003) 112 Cal. App. 4th 1416, 1430, the appellate
 17 court held that a party's perjurious declaration and personal e-mails were within the scope of the
 18 litigation privilege because they related to potential and actual litigation, despite Plaintiff's
 19 contention that both communications qualified as tortious conduct. In fact, as the Court noted in
 20 *Shafer v. Berger Kahn* (2003) 107 Cal. App. 4th 54, "[b]ecause the privilege applies without
 21 regard to malice or evil motives, it has been characterized as absolute." In *Hagberg v. California*
 22 *Federal Bank FSB* (2004) 32 Cal.4th 39, the California Supreme Court held that a bank
 23 employee's statements to the police regarding a customer's possession of an alleged counterfeit
 24 check were absolutely privileged. Likewise, in *Herterich v. Peltner* (2018) 20 Cal.App.5th 1132,
 25 1142, the Court noted that even committing a fraud upon the Court is protected by the litigation
 26 privilege: "While we by no means condone intentionally deceptive conduct before the courts, the
 27 litigation privilege is absolute."].)

28 Here, Plaintiff contends Attorney Weaver advised his client to include a "false" allegation
 in a complaint against him. While not true, it is ultimately immaterial as the litigation privilege
 would extend to Attorney Weaver even if the allegation he advised to include was false. (See
 Weaver Decl., ¶12; see also *Herterich*, *supra*.) Same is true for "abusing the legal process" and/or

1 “deceptive conduct” leading to the “resulting judgment” all of which still consist of
 2 communicative acts undertaken in direct connection with litigation. Accordingly, Plaintiff’s
 3 unabashed attempt to hold Attorney Weaver liable for merely representing a client in a judicial
 4 proceeding is precisely the type of claim that is barred by the litigation privilege set forth in Civil
 5 Code § 47(b).

6 3. The Applicable Statute Of Limitations Bars Plaintiff’s Claim, No Matter
 7 How it is Characterized

8 Statutes of limitations are the legislative enactments of a public policy “designed to
 9 promote justice and prevent the assertion of stale claims after the lapse of long periods of time.”
 10 (*McGee v. Weinberg* (1979) 97 Cal.App.3d 798, 804.) As the United States Supreme Court
 11 explained in *Order of R. Telegraphers v. Railway Express Agency, Inc.* (1944) 321 U.S. 342, 349:
 12 “[t]he theory is that even if one has a just claim, it is unjust not to put the adversary on notice to
 13 defend within the period of limitation and that the right to be free of stale claims in time comes to
 14 prevail over the right to prosecute them.” (See also *Duran v. St. Luke’s Hospital* (2003) 114
 15 Cal.App.4th 457 [statute of limitations strictly enforced even though plaintiff was only one day
 16 late due to \$3 deficiency with court filing fee].)

17 Code of Civil Procedure § 340.6, subdivision (a) provides that:

18 (a) An action against an attorney for a wrongful act or omission,
 19 other than for actual fraud, arising in the performance of
 20 professional services shall be commenced **within one year after the**
 21 **plaintiff discovers, or through the use of reasonable diligence**
 22 **should have discovered, the facts giving rise to the wrongful act**
 23 **or omission**, or four years from the date of the wrongful act or
 24 omission, whichever occurs first. In no event shall the time for
 25 commencement of legal action exceed four years except that the
 26 period shall be tolled during the time that any of the following exist:

23 (1) The plaintiff has not sustained actual injury[;]

24 (2) The attorney continues to represent the plaintiff
 25 regarding the specific subject matter in which the alleged
 26 wrongful act or omission occurred[;]

26 (3) The attorney willfully conceals the facts constituting the
 27 wrongful act or omission when such facts are known to the
 28 attorney, except that this subdivision shall toll only the four-
 year limitation[;]

(4) The plaintiff is under a legal or physical disability which restricts the plaintiff's ability to commence legal action.

(5) A dispute between the lawyer and client concerning fees, costs, or both is pending resolution under Article 13 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and Professions Code . . .

(Emphasis added.) The enumerated tolling provisions set forth in CCP §340.6 are the sole grounds to toll the limitations period. (*Laird v. Blacker* (1992) 2 Cal.4th 606, 618.) In *Laird*, the Supreme Court expressly held that:

Section 340.6, subdivision (a), states that 'in no event' shall the prescriptive period be tolled except under those circumstances specified in the statute. Thus, **the Legislature expressly intended to disallow tolling under any circumstances not enumerated in the statute.**

(*Id.* at 618, emphasis added.)

"Based on its plain language, § 340.6 applies to all actions, except those for actual fraud, brought against an attorney 'for a wrongful act or omission' which arise 'in the performance of professional services.'" (See *Vafi v. McCloskey* (2011) 193 Cal.App.4th 874, 881.) In *Vafi*, the Court of Appeal expressly rejected the assertion that §340.6 was limited to claims of malpractice by an aggrieved client:

If the Legislature wanted to limit the reach of section 340.6 to malpractice actions between clients and attorneys, it could easily have done so. Absent express legislative intent that it meant client when it used the word plaintiff or that it meant malpractice when it referred to a wrongful act or omission, we are left only to interpret the plain meaning of the words in the statute. [Citation.] In any event, courts have consistently applied section 340.6 to various tort and contract actions.

(*Id.* at 882-83; see also, e.g., *Callahan v. Gibson, Dunn & Crutcher LLP* (2011) 194 Cal.App.4th 557, 567, fn 5 [recognizing that a negligent infliction of emotional distress claim is barred by the legal malpractice statute of limitations because the limitations period applies to "all cases other than actual fraud."].)

Plaintiff's allegations assert Attorney Weaver advised his client, Mr. Fiechter to amend the underlying complaint to include fraud claims. That amended complaint was filed in 2011. (Exh. A to Graft Decl.) Moreover, the subject judgment that Plaintiff characterizes as "fraudulent" was

1 entered in 2015, and Plaintiff exhibited his discovery of the judgment through his failed attempt to
 2 set it aside its entry under Code of Civil Procedure § 473 in 2019. (Exhs L and M to Graft Decl.)
 3 Plaintiff unquestionably was aware of the facts constituting his claims against Attorney Weaver no
 4 later than his failed attempt to set aside the judgment he claims was procured by fraud, back in
 5 2019. (Id.)

6 Any alleged actual injury also must have occurred by the time the judgment was entered
 7 and Plaintiff was unable to set it aside, again, in 2019. (Exh. M to Graft Decl.) There is also no
 8 other basis to establish tolling, whether on continuous representation grounds (Attorney Weaver
 9 having never represented Plaintiff) or either of the three other enumerated tolling bases (willful
 10 concealment only applies to the four year limitations period by its own terms, no disability is
 11 contended, nor could there have been any fee litigation, again because Attorney Weaver never
 12 represented Plaintiff).

13 Because Plaintiff cannot establish any basis for tolling, the statute of limitations had to
 14 commence by or before 2019 (probably well before 2015, to be sure), at the latest when Plaintiff
 15 sought to set aside the judgment unsuccessfully. Yet, Plaintiff did not file his Complaint until July
 16 2022, years after the one-year (and also four year) statute of limitations had expired. Thus, the
 17 applicable statute of limitations also bars Plaintiff's claim against Attorney Weaver.

18 4. Civil Code Section 1714.10 Also Bars Plaintiff's Complaint as He Failed to
 19 Obtain Pre-Filing Authorization

20 Civil Code §1714.10 prohibits the filing of a claim alleging a conspiracy between an
 21 attorney and his or her client arising from any attempt to contest or compromise a claim or
 22 dispute, based upon the attorney's representation of a client, absent a pre-filing order. Absent
 23 compliance, the pleading is defective and subject to dismissal. (See also *Klotz v. Milbank, Tweed,*
 24 *Hadley & McCloy* (2015) 238 Cal.App.4th 1339, 1352 [finding section 1714.10 applicable to
 25 claim of conspiracy].)

26 In *Evans v. Pillsbury Madison & Sutro* (1998) 65 Cal.App.4th 599, 604, the court
 27 explained that:

Section 1714.10 was intended to weed out the harassing claim of conspiracy that is so lacking in reasonable foundation as to verge on the frivolous. [Citation] The weeding tool is the requirement of pre-filing approval by the court, which must be presented with a verified petition accompanied by a copy of the proposed pleading and “supporting affidavits stating the facts upon which the liability is based”; the pleading is not to be filed until the court has determined . . . the party seeking to file the pleading has established that there is a reasonable probability that the party will prevail in the action.

Importantly, Civil Code § 1714.10’s application is not limited to expressly-pled claims of “conspiracy,” but applies to any allegation that an attorney jointly participated in wrongful conduct with a client. (See *Cortese v. Sherwood* (2018) 26 Cal.App.5th 445, 455 [noting rule applies “without regard to the labels attached to the cause of action or whether the word ‘conspiracy’—having no talismanic significance—appears in them” and applying Civil Code § 1714.10 to claim for active participation in breach of trust].)

Here, Plaintiff’s claims against Attorney Weaver falls firmly within the confines of § 1714.10/agent’s immunity rule. The claim is premised entirely on Attorney Weaver’s conduct representing a client, Mr. Fiechter, in connection with enforcing the outstanding judgment owed by Plaintiff to Attorney Weaver’s client. Section 1714.10 consequently bars the claim unless Plaintiff can establish an exception. There are only two limited exceptions to Civil Code § 1714.10: (1) where the agent breaches an independent legal duty owed to the plaintiff or (2) the agent’s acts go beyond the performance of a professional duty to the principal and involved a conspiracy to violate a legal duty in furtherance of the agent’s personal financial gain. (See *Klotz, supra*, 238 Cal.App.4th at 1351.) Neither applies here.

V. CONCLUSION

Plaintiff’s Complaint is precisely the type of suit which the anti-SLAPP statute is intended to address as Plaintiff seeks to hold Attorney Weaver liable for acts undertaken when representing a client adverse to Plaintiff. Where, as here, Plaintiff cannot show a reasonable probability of prevailing on his claim, the Court must strike the Complaint under C.C.P. § 425.16, and Attorney Weaver should be deemed prevailing party.

1 DATED: November 16, 2022

LEWIS BRISBOIS BISGAARD & SMITH LLP

2
3 By: /s/ Alex A. Graft
4 ALEX A. GRAFT
5 Attorneys for Defendant
6 ROBERT N. WEAVER, ESQ.
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Attorneys for Defendant

ROBERT N. WEAVER, ESQ.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

CARL A. WESCOTT,

Plaintiff,

vs.

FREDERICK C. FIECHTER, IV;

DAVID M. ZEFF, ESQ.;

ROBERT N. WEAVER, ESQ. + DOES 1
through 25,

Defendants.

Case No. CV22-4288-AGT

**DECLARATION OF ROBERT N.
WEAVER, ESQ. IN SUPPORT OF
DEFENDANT ROBERT N. WEAVER,
ESQ.'S SPECIAL MOTION TO STRIKE
(ANTI-SLAPP) PLAINTIFF'S
COMPLAINT PURSUANT TO CAL.
CODE OF CIVIL PROCEDURE § 425.16**

Date: December 16, 2022

Time: 10:00 a.m.

Courtroom: A - 15th Floor

Magistrate Judge Alex G. Tse

DECLARATION OF ROBERT N. WEAVER, ESQ.

I, ROBERT N. WEAVER, ESQ., declare as follows:

1. I am a party in the above-entitled action.

2. I have personal knowledge of the facts set forth herein, and if called as a witness to
testify thereto, I could competently and truthfully do so.

3. I previously represented Defendant FREDERICK C. FIECHTER, IV ("Mr.
Fiechter"), a creditor of Plaintiff CARL A. WESCOTT ("Plaintiff"), in a bankruptcy and
adversary proceedings against Plaintiff seeking a judgment determining the amount and
dischargeability of Plaintiff's debt to Mr. Fiechter. At present, Plaintiff owes Mr. Fiechter well
over \$2.75 million comprised of two unsatisfied judgments.

4. I was initially retained in December of 2011 by Mr. Fiechter to assist attorney Guy Kornblum in addressing a Chapter 7 bankruptcy petition filed by Plaintiff and his spouse.

5. In the course of his engagement, I uncovered evidence of fraud on the part of Plaintiff which would support the basis for an adversary complaint establishing that the judgments obtained by Mr. Fiechter against Plaintiff were not dischargeable under 11 U.S.C. §523. I ultimately caused an adversary complaint to be filed on that basis.

6. While the adversary case was pending, I worked closely with the bankruptcy trustee and her attorney, who filed their own adversary complaint against Plaintiff to deny discharge. The trustee later prevailed on summary judgment and Mr. Wescott was denied his bankruptcy discharge.

7. Since discharge was denied, I did not proceed with the adversary complaint because the relief I had sought was mooted.

8. Plaintiff again filed for bankruptcy in 2016 (neglecting to provide notice to his creditors), and was initially granted a discharge, but I arranged with an associated counsel, located close to the court where that bankruptcy action had been filed, to vacate the discharge order as it applied to Mr. Fiechter.

9. Collection on behalf of Mr. Fiechter, however, continued to present difficulties, as Plaintiff owed substantial amounts of spousal maintenance and child support as a result of Plaintiff's apparently contentious divorce. In the aftermath of the divorce and bankruptcy proceedings, he maintained that he lacked any significant assets.

10. I'm aware that Plaintiff has been declared a vexatious litigant by the San Francisco Superior Court pursuant to Section 391 of the California Code of Civil Procedure for abuse of process and harassing litigation. Attached hereto as **Exhibit A** is a copy of a current vexatious litigant list maintained by the office of the judicial council, which I retrieved this month.

11. I'm also aware that Plaintiff has filed no less than twenty-five cases in federal cases throughout the country since January 2021. Attached hereto as **Exhibit B** is a true and correct copy of a list of actions filed by Plaintiff, which I obtained using PACER. He has also filed at least ten other federal cases before 2021. In addition to this he has filed score of cases in the

1 California State Courts in the same period of time. Mr. Wescott has obtained relief to proceed in
2 many (if not most) of the cases *in forma pauperis*.

3 12. I have never advised Mr. Fiechter to include a “false” allegation in a complaint
4 against Plaintiff. As alleged in the adversary complaint which I prepared, my investigation of the
5 transactions between Plaintiff and Mr. Fiechter revealed that Plaintiff had acted fraudulently to
6 secure substantial amounts of money from Mr. Fiechter. This was a basis to deny Plaintiff a
7 bankruptcy discharged pursuant to 13 U.S.C. §523.

8 I declare under penalty of perjury under the laws of the United States of America that the
9 foregoing is true and correct and that this declaration was executed on this 15th day of November,
10 2022, at San Francisco, California.

11
12 
13 Robert N. Weaver, Esq.

Exhibit A


VEXATIOUS LITIGANT LIST
From Prefiling Orders Received from California Courts
Prepared and Maintained by the Judicial Council of California
(Orders prohibiting future filings entered through November 1, 2022)

LAST NAME	FIRST NAME	MIDDLE	COURT	CASE NO.	DATE	COMMENTS
WANG	George		Solano Superior Court	FCM159141	06/15/21	aka Chang Wang
WANG	George		Solano Superior Court	FCS054835	06/15/21	aka Chang Wang
WANG	Julie		San Francisco Superior Court	457890	09/23/08	
WANG	Kailin		San Francisco Superior Court	FDV19814465	01/05/21	
WANG	Loli	Victoria	Alameda Superior Court	RG07324365	08/14/07	
WANG	Yen		Solano Superior Court	FCS050690	06/15/21	
WANG	Yen		Solano Superior Court	FCS054835	06/15/21	
WANG	Yen		Solano Superior Court	FCM167700	06/15/21	
WANVEER	Lloyd	Marston	San Francisco Superior Court	964377	10/03/95	
WANVEER	Paul	Thomas	San Francisco Superior Court	964377	10/03/95	
WARREN	Richard		Los Angeles Superior Court	LC61078	09/13/02	
WASHINGTON	Roderick		Court of Appeal, 5th Dist	F050010	05/23/06	
WATERS	B.	Benedict	Los Angeles Superior Court	WEC117069	03/30/93	
WATERS	B.	Benedict	Los Angeles Superior Court	WEC127394	03/30/93	
WATKINS	Michael	W.	San Bernardino Superior Court	VFLV5032196	10/20/05	
WATSON	Catherine	Herrera	San Francisco Superior Court	CGC-18-572340	06/02/21	
WATSON	Ruby		San Diego Superior Court	693308	01/26/96	
WEARY	LaColya		Los Angeles Superior Court	BCD19253	10/31/91	
WEBB	Arthur		San Francisco Superior Court	CGC08480801	02/10/10	
WEBB	Michael		El Dorado Superior Court	PFL20170238	10/01/20	
WEBBER	Victor		Santa Clara Superior Court	1-01-FL-102682	12/12/14	
WEI	Claude		San Diego Superior Court	37201400010974CLUDCTL	07/10/14	
WEINER	Lawrence		Marin Superior Court	153501	08/06/92	
WEINER	Lawrence		Marin Superior Court	CV085041	11/10/08	
WEISS	Michael		Orange County Superior Court	30200900331535-PR-PW-CJC	08/16/17	
WEISS	Valerie	S.	San Diego Superior Court	695486	03/12/96	
WEITZMAN	Arin	Karol	Alameda Superior Court	RG08417951	01/27/09	
WELCH (J-07488)	Eugene	Everett	Amador Superior Court	09CV5842	10/15/10	
WELCH	Martha	M.	San Diego Superior Court	37201700007841CUCRCTL	12/19/17	
WELCH-BROWN	Gaye		Sacramento Superior Court	07A501921	10/22/07	
WELLS	Dale	Scott	Sonoma Superior Court	SFL983906	03/30/00	
WELLS	Dale	Scott	Sonoma Superior Court	SFL951401	03/30/00	
WELLS	Frank		Los Angeles Superior Court	BC518694	07/17/14	
WELLS	Lorraine	Althea	Los Angeles (Beverly Hills) Muni	97U00788	10/30/98	
WELLS	William	G.	Court of Appeal, 2nd Dist, Div 2	B235019	12/12/12	
WELSH	Joyce	L.	Contra Costa Superior Court	D0500622	05/17/07	Order states specifics.
WELSH	Michael		Los Angeles Superior Court	EC10390	01/06/93	
WESCOTT	Carl	A.	San Francisco Superior Court	FDI14781666	05/01/17	
WEST	Anthony	E.	Los Angeles Superior Court	BC714698	09/26/19	
WESTIN	Bruce		Los Angeles Superior Court	YC053041	01/22/07	
WESTOVER	Heather	D.	El Dorado Superior Court	SC 20140146	11/09/15	
WETZEL	John	Louis	Los Angeles Superior Court	LC018140	01/19/93	
WHEELER	John	Frederick	Kern Superior Court	S1500CV264196	03/30/09	
WHEELER	Lorenzo		Los Angeles Superior Court	LC100357	04/17/14	
WHITAKER	Fred	A.	Alameda Superior Court	6873200	11/22/91	
WHITAKER	Fred	A.	Court of Appeal, 1st Dist, Div 4	A057347	05/06/92	
WHITE	Arin		Butte Superior Court	FL041159	01/26/12	
WHITE	Arin		Butte Superior Court	FL040850	01/26/12	
WHITE	Arin		Butte Superior Court	FL041076	01/26/12	
WHITE	Arin		Butte Superior Court	FL039776	01/26/12	

Exhibit B

i PACER Maintenance, 11/13/2022

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Party Search Results

Search Criteria: Party Search; Last Name: [Wescott]; First Name: [Carl]

Result Count: 60 (2 pages)

Current Page: 1

Party Name	Case Number	Case Title	Court	Date Filed	Date Closed
Wescott, Carl	0:1998cr10153	Rich, et al v. West Communication, et al	U.S. Court Of Appeals, Fifth Circuit	02/10/1998	07/09/1998
Wescott, Carl (pla)	3:2020cv06456	Wescott v. Crowe et al	California Northern District Court	09/16/2020	
Wescott, Carl (pla)	3:2021cv00319	Wescott v. Martin et al	Florida Middle District Court	03/22/2021	07/16/2021
Wescott, Carl "Kalle" (pla)	3:2017cv07371	Wescott v. Bushnell et al	California Northern District Court	12/29/2017	05/14/2018
Wescott, Carl A (pla)	1:2021cv00040	Wescott v. Global Accelerator Network, LLC et al	Colorado District Court	01/07/2021	06/17/2021
Wescott, Carl A (pla)	3:2019cv05898	Wescott v. Upshaw et al	Washington Western District Court	09/24/2019	01/08/2020
Wescott, Carl A (pla)	3:2020cv05442	Wescott v. Upshaw et al	Washington Western District Court	05/11/2020	09/14/2020
Wescott, Carl A. (pla)	2:2022cv01615	Carl A. Wescott v. Jessica Jackley et al	California Central District Court	03/09/2022	10/04/2022
Wescott, Carl A. (pla)	2:2022cv08029	Carl A. Wescott v. Mr. Jay Caplan et al	California Central District Court	11/02/2022	
Wescott, Carl A. (pla)	2:2021cv09975	Carl A. Wescott v. Alex Kaay et al	California Central District Court	12/27/2021	
Wescott, Carl A. (pla)	2:2022cv00677	Carl A. Wescott v. Kathy Fettke et al	California Central District Court	01/28/2022	03/08/2022
Wescott, Carl A. (dft)	2:2012cv00734	ATAIN Specialty Insurance Co. v. River Heights Condos, et al.,	California Eastern District Court	03/22/2012	03/22/2013
Wescott, Carl A. (pla)	2:2022cv00179	(PS) Wescott v. Yee	California Eastern District Court	01/27/2022	05/03/2022
Wescott, Carl A. (dft)	3:2012ap03086	Hoskins and Pook Snook Dook Limited Partnership	California Northern Bankruptcy Court	05/21/2012	07/10/2015
Wescott, Carl A. (pla)	4:2019cv02084	Wescott v. Smith et al	California Northern District Court	04/17/2019	06/26/2019
Wescott, Carl A. (pla)	3:2021cv09200	Wescott v. SparkLabs IoT Accelerator Fund, L.P. et al	California Northern District Court	11/29/2021	09/21/2022
Wescott, Carl A. (pla)	3:2021cv10011	Wescott v. Daniel et al	California Northern District Court	12/28/2021	07/06/2022
Wescott, Carl A. (pla)	3:2022cv00067	Wescott v. Beresford Corporation et al	California Northern District Court	01/05/2022	04/20/2022
Wescott, Carl A. (pla)	3:2022cv00070	Wescott v. Matusow et al	California Northern District Court	01/05/2022	
Wescott, Carl A. (pla)	3:2022cv00543	Wescott v. Block	California Northern District Court	01/27/2022	
Wescott, Carl A. (pla)	3:2022cv02682	Wescott v. Yee	California Northern District Court	05/04/2022	08/01/2022
Wescott, Carl A. (pla)	3:2022cv04288	Wescott v. Weaver et al	California Northern District Court	07/25/2022	
Wescott, Carl A. (pla)	4:2022cv04651	Wescott v. Dunn et al	California Northern District Court	08/05/2022	

Party Name	Case Number	Case Title	Court	Date Filed	Date Closed
Wescott, Carl A. (pla)	1:2021cv00462	Wescott v. SparkLabs IoT Accelerator Fund, L.P. et al	Delaware District Court	03/29/2021	11/09/2021
Wescott, Carl A. (pla)	1:2022cv01435	Wescott v. Summerbio, LLC et al	Delaware District Court	10/31/2022	
Wescott, Carl A. (pla)	3:2021cv00318	Wescott v. Simonetta	Florida Middle District Court	03/22/2021	08/11/2021
Wescott, Carl A. (pla)	1:2022cv00399	Wescott v. First American Financial Corporation et al	Illinois Northern District Court	01/24/2022	
Wescott, Carl A. (pla)	1:2022cv00442	Wescott v. United Airlines et al	Illinois Northern District Court	01/21/2022	
Wescott, Carl A. (pla)	1:2022cv00714	Wescott v. Block et al	Illinois Northern District Court	02/08/2022	
Wescott, Carl A. (pla)	1:2022cv04170	Wescott v. Block et al	Illinois Northern District Court	08/03/2022	
Wescott, Carl A. (pla)	1:2022cv00785	Wescott v. Russ et al	Texas Western District Court	08/04/2022	
Wescott, Carl Alexander (db)	3:2011bk34426	Carl Alexander Wescott	California Northern Bankruptcy Court	12/13/2011	01/17/2012
Wescott, Carl Alexander (db)	3:2012bk30143	Carl Alexander Wescott and Monette Rosemarie Stephens	California Northern Bankruptcy Court	01/17/2012	07/15/2016
Wescott, Carl Alexander (dft)	3:2012ap03057	Fiechter and Wescott	California Northern Bankruptcy Court	04/20/2012	05/22/2013
Wescott, Carl Alexander (dft)	3:2012ap03058	Kirk and Wescott	California Northern Bankruptcy Court	04/20/2012	05/22/2013
Wescott, Carl Alexander (dft)	3:2012ap03062	Quality Housing Solutions, LLC and Wescott	California Northern Bankruptcy Court	04/23/2012	07/19/2012
Wescott, Carl Alexander (dft)	3:2012ap03148	Hoskins and Wescott	California Northern Bankruptcy Court	10/15/2012	01/13/2015
Wescott, Carl Alexander (db)	1:2016bk10905	Carl Alexander Wescott	California Northern Bankruptcy Court	10/24/2016	11/30/2016
Wescott, Carl Alexander (db)	1:2016bk10975	Carl Alexander Wescott	California Northern Bankruptcy Court	11/14/2016	09/05/2019
Wescott, Carl Alexander (dft)	3:2017ap03015	S.C. Anderson, Inc and Wescott	California Northern Bankruptcy Court	02/13/2017	02/07/2019
Wescott, Carl Alexander (pla)	3:2017ap03034	Wescott and Arnovick	California Northern Bankruptcy Court	05/26/2017	09/29/2017
Wescott, Carl Alexander (pla)	3:2017ap03038	Wescott and City of San Francisco	California Northern Bankruptcy Court	06/07/2017	04/09/2019
Wescott, Carl Alexander (pla)	3:2017ap03039	Wescott and State of California	California Northern Bankruptcy Court	06/07/2017	10/31/2017
Wescott, Carl Alexander (pla)	1:2017ap01024	Wescott and Szucsko	California Northern Bankruptcy Court	07/25/2017	10/30/2017
Wescott, Carl Alexander (pla)	3:2017ap03064	Wescott and SC Anderson, Inc.	California Northern Bankruptcy Court	09/29/2017	02/16/2018
Wescott, Carl Alexander (dft)	1:2018ap01031	Fiechter and Wescott	California Northern Bankruptcy Court	09/26/2018	01/31/2019
Wescott, Carl Alexander (pla)	3:2017cv05676	Wescott v. SC Anderson, Inc. et al	California Northern District Court	10/02/2017	11/06/2018
Wescott, Carl Alexander (pla)	3:2017cv05837	Wescott v. Stephens et al	California Northern District Court	10/11/2017	04/10/2018
Wescott, Carl Alexander (pla)	4:2017cv06271	Wescott v. Reisner et al	California Northern District Court	10/30/2017	08/16/2019
Wescott, Carl Alexander (pla)	4:2017cv07330	Wescott v. Martin, et al	California Northern District Court	12/27/2017	08/29/2018
Wescott, Carl Alexander (pla)	3:2018cv02829	Wescott v. GILA, Inc dba Municipal Services Bureau et al	California Northern District Court	05/14/2018	07/23/2018
Wescott, Carl Alexander (pla)	3:2018cv05009	Wescott v. Stephens et al	California Northern District Court	08/15/2018	10/29/2018
Wescott, Carl Alexander (pla)	4:2018cv05842	Wescott v. Martin et al	California Northern District Court	09/21/2018	11/08/2018
Wescott, Carl Alexander (pla)	4:2018cv07104	Wescott v. Martin et al	California Northern District Court	11/20/2018	03/20/2019

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All Courts; Name Wescott, Carl; All Courts; Page: 1

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Exhibit B

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NORTH DISTRICT OF CALIFORNIA

CARL A. WESCOTT
8210 E. VIA DE LA ESCUELA
SCOTTSDALE AZ 85258
in propria persona
CARLWSOJ@GMAIL.COM
+1 936 937 2688

UNITED STATES DISTRICT COURT
DISTRICT OF CALIFORNIA
NORTHERN DISTRICT

CARL A. WESCOTT,
Plaintiff,

vs.

ROBERT N. WEAVER, ESQ.,
et al.

Defendants.

Civil Action No. 22-cv-04288-AGT

**PLAINTIFF'S DISMISSAL OF MR.
WEAVER WITHOUT PREJUDICE**

Plaintiff Carl Wescott, proceeding *pro se*, hereby dismisses Defendant Mr. Robert N. Weaver,
esq. without prejudice.

RESPECTFULLY SUBMITTED on November 29th, 2022


CARL A. WESCOTT, *pro se*

580025X2746X2425XPR
Carl Wescott
8210 e via de la escuela
scottsdale, AZ 85258



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NORTH DISTRICT OF CALIFORNIA

Exhibit C

LAFFEY MATRIX

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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $\frac{1}{2}$ Years Out of Law School $\frac{1}{2}$ is calculated from June 1 of each year, when most law students graduate. $\frac{1}{2}$ 1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $\frac{1}{2}$ 4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $\frac{1}{2}$ 1-3" from June 1, 1996 until May 31, 1999, would move into tier $\frac{1}{2}$ 4-7" on June 1, 1999, and tier $\frac{1}{2}$ 8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

Exhibit D

Lew-Pham, Nancy

From: Carl Wescott <carlwsoj@gmail.com>
Sent: Monday, November 28, 2022 5:41 PM
To: Graft, Alex
Cc: Lew-Pham, Nancy
Subject: Re: Wescott v. Weaver - RE: [EXT] Please email me a digital copy of your filing (Was: Fwd: package from Lewis Brisbois)



No, Mr. Graft, but after reviewing your motion, I think you have two winning arguments (maybe three) out of your four. I'm planning to dismiss Mr. Weaver.

(It doesn't affect Mr. Weaver, but I'm going to amend the legal complaint and add about 7 causes of action that are stronger than the debt collections practices counts).

As an attorney, Mr. Weaver had a duty, once I notified him, to investigate the fact that I was never served on the Fiechter lawsuit.

Mailing a summons to the address "Carl Wescott c/o San Pedro Sula, Honduras" and emailing old email addresses does not constitute valid personal service. Even had Mr. Zeff, as agent for Fiechter, mailed the summons to a correct address, or emailed me at my actual email address, I would have been aware of the lawsuit but that would not constitute valid service.

We all know that I should have been personally served with the lawsuit and summons. To represent to the Court that mailing a random city in Honduras or emailing me constitutes valid personal service is extrinsic fraud upon the Court.

But that was prior to Mr. Weaver representing Mr. Fiechter in this particular case/matter.

After I notified Mr. Weaver of this issue (lack of service), Mr. Weaver then should have withdrawn (after his investigation), and he should have notified the Court of this issue.

However, since I'm unaware of any action that Mr. Weaver has taken to collect on the fraudulent judgment, I'll dismiss him from the lawsuit.

Mr. Weaver's ethical lapses and refusal to do the right thing are matters for me to complain about to the California bar.

Mr. Weaver apparently wasn't involved in Mr. Zeff bribing the opposing law offices to steal confidential and privileged information about me, either. That's another matter for the California bar, and from looking at other cases, can warrant disbarment. That's also a matter for law enforcement, because in California, kickbacks and commercial bribery with payments of over \$1000 are a felony.

You can inform Mr. Weaver, whom I've already notified on multiple occasions, that I'll give him one more chance, until the end of the year (2022) to:

* withdraw from representing Mr. Fiechter related to this case (*Fiechter versus Wescott*) and judgment and the collection thereof

and/or

* investigate the matter, and do his duty to inform the Court that I was never served etc.

If Mr. Weaver does neither by 12/31/2022, I will complain to the California bar about Mr. Weaver in January 2023.

If Mr. Weaver does not withdraw, then in the future, the moment he takes a step to attempt to collect on the fraudulent judgment, or renews it, then I will sue Mr. Weaver and Mr. Fiechter. His client is liable for his tortious acts.

I think your last argument is a non-starter in federal Court, but you wrote an excellent motion/brief.

I'll get the dismissal out to the Court (by mail) in the next 24 hours, and will send you a copy (both served, and digital courtesy copy).

--CAW +1 936 937 2688

Carl A. Wescott

On Mon, Nov 28, 2022 at 9:46 PM Graft, Alex <Alex.Graft@lewisbrisbois.com> wrote:

Hi Mr. Wescott,

Please see the attached proposed stipulation concerning the initial status conference in the above case. Are you amenable to modifying the case schedule accordingly? Please advise.

Thanks,



Alex A. Graft

Partner

Certified Specialist, State Bar of California

Legal Malpractice

Vice Chair of Legal Malpractice Group

Alex.Graft@lewisbrisbois.com

T: 415.438.6692 F: 415.434.0882

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PLEASE NOTE OUR NEW ADDRESS AS OF 10/24/2022:
45 Fremont Street, Suite 3000, San Francisco, CA 94105



Alex A. Graft
Partner
Alex.Graft@lewisbrisbois.com

T: 415.438.6692 F: 415.434.0882

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From: Carl Wescott <carlwsoj@gmail.com>

Sent: Wednesday, November 23, 2022 1:54 PM

To: Lew-Pham, Nancy <Nancy.Lew-Pham@lewisbrisbois.com>

Cc: Graft, Alex <Alex.Graft@lewisbrisbois.com>

Subject: Re: Wescott v. Weaver - RE: [EXT] Please email me a digital copy of your filing (Was: Fwd: package from Lewis Brisbois)

Received, thanks!

Carl A. Wescott +1 936 937 2688

On Thu, Nov 24, 2022 at 1:30 AM Lew-Pham, Nancy <Nancy.Lew-Pham@lewisbrisbois.com> wrote:

Mr. Wescott, attached please find the following:

Doc 13 – filed Notice of Special Motion (Anti-SLAPP);

Doc 13-1 filed MPA iso Special Motion (Anti-SLAPP);

Doc 13-2 filed Dec of Robert Weaver iso Special Motion (Anti-SLAPP);

Doc 13-3 filed Dec Alex Graft iso Special Motion (Anti-SLAPP); and

Doc 13-4 filed Certificate of Service.

Thank you.

Begin forwarded message:

**PLEASE NOTE OUR NEW ADDRESS AS OF 10/24/2022:
45 Fremont Street, Suite 3000, San Francisco, CA 94105**



Nancy Lew-Pham
Secretary
Nancy.Lew-Pham@lewisbrisbois.com
T: 415.438.6630 F: 415.434.0882

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From: Carl Wescott <carlwsoj@gmail.com>
Date: November 23, 2022 at 11:57:01 AM PST
To: "Graft, Alex" <Alex.Graft@lewisbrisbois.com>, Carl Wescott <carlwsoj@gmail.com>
Subject: [EXT] Please email me a digital copy of your filing (Was: Fwd: package from Lewis Brisbois)
Reply-To: carlwsoj@gmail.com

Mr. Graft, as I'm not home in Scottsdale this week, I can't open the package with your filing (I called Lewis Brisbois and found out it was your filing).

Would you be so kind as to email me, or have someone email me, your filing(s) in *Wescott versus Weaver, et al.*?

I'll send you digital courtesy copies of my filings in the future.

--Carl

Carl A. Wescott +1 936 937 2688

----- Forwarded message -----

From: Carl Wescott <carlwsoj@gmail.com>
Date: Wed, Nov 23, 2022 at 11:20 PM
Subject: package from Lewis Brisbois
To: McGourty, Zachary <zachary.mcgourty@lewisbrisbois.com>
Cc: <anthony.barone@lewisbrisbois.com>, <diana.hart@lewisbrisbois.com>

Hello Mr. McGourty, (and/or Mr. Barone and Ms. Hart)-

A package from Lewis Brisbois arrived at my house in Scottsdale yesterday (as I can see via a USPS service). I assume it came from (mailed) service of something you filed in Court. But I'm not home at the moment.

Would you be so kind as to send (email) me a digital/electronic copy of whatever you sent to me?

Thank you

--CAW +1 936 937 2688

Carl A. Wescott